

Application No. 10/036,066

Paper Dated May 26, 2005

Response to Office Action dated January 26, 2005

Attorney Docket No. 3936-011568

REMARKS

Claims 10-15 are pending. Claims 10-15 stand rejected for purported indefiniteness under 35 U.S.C. § 112, second paragraph. Claims 10-14 stand rejected for purported anticipation by U.S. Patent No. 5,738,728 to Tisone. Claims 10, 11 and 15 stand rejected for asserted anticipation by U.S. Patent No. 5,345,079 to French et al.

By means in part of the claim amendments made herewith, Applicant urges that all the rejections are in condition for withdrawal.

An important feature of the present assay system is the computer-controlled device for sample aerosol generation, because it is the aerosolization, or misting, of the biological sample down onto the reaction spots containing reactive constituents that forms a key feature of the invention. The aerosolization of the sample is important because application of the sample to the reaction spots on the substrate with the sample's being aerosolized prevents cross-contamination between or among the reaction spots. This phenomenon is described in the specification at, for example, page 10, paragraph 40, which explains that the mist (aerosolized sample) is applied to the substrate (i.e., biochip) in a manner that does not form a wetting film and never bridges the adjacent reaction spots. Moreover, aerosolized sample droplets that fall between the reaction spots tend to migrate toward and to be absorbed by the nearest dot, which further prevents any cross-contamination. This aerosolization feature is set forth in each of claims 10-15.

Neither Tisone nor French et al. teach or suggest the above important inventive feature. At column 3, lines 19-23 of Tisone, there is no teaching or suggestion of the application of the sample in aerosolized form, or the presence of any device to accomplish aerosolization as any part of the Tisone disclosure. French et al. are not able to teach the claimed system either, in that French et al. do inject a sample into a gas stream, but not in any way for the purpose of contacting the sample onto a substrate bearing reaction spots.

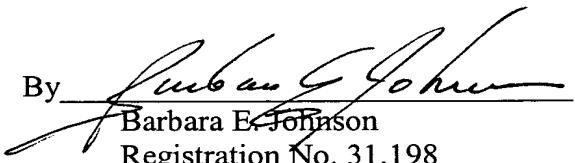
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CONCLUSION

For reasons including the foregoing, therefore, entry of the amendments to claims 10-12 and allowance of claims 10-15 are respectfully requested.

Respectfully submitted,

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